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EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
NOTIFICATION DATE		DELIVERY MODE		
04/17/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

**Office Action Summary****Application No.**

09/583,216

**Applicant(s)**

LEONARDO ET AL.

**Examiner**

VANEL FRENEL

**Art Unit**

3687

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/03/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/03/09 has been entered.

### **Notice to Applicant**

2. This communication is in response to the RCE filed 2/03/09. Claims 21-45 have been amended. Claims 21-45 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidyanathan et al. (20040059596) in view of Campbell (20010041993).

As per claim 21, Vaidyanathan discloses a computer-implemented method for a network-based facility, the method comprising: receiving a complaint from a first party, the complaint relating to a network-based transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044); communicating information about the complaint to the second party (See Vaidyanathan, Fig.6, Page 5, Paragraphs 0057-0060); allowing the first party and the second party "without additional prompting", to repeatedly "authenticate to the network-based facility as said first party or second party to said transaction (See Vaidyanathan, Fig.2B; Fig.3 Fig.8; Page 4, Paragraph 0049)", view and enter comments about the complaint relating to the network-based transaction on a messaging board "notification of comments entered by said first or second party is sent to the other party" (See Vaidyanathan, Page 7, Paragraphs 0076-0078); allowing the first party to specify if the complaint is resolved (See Vaidyanathan, Page 7, Paragraphs 0077-0079).

Vaidyanathan does not explicitly disclose allowing the first party to file an insurance claim concerning the complaint relating to the network-based transaction only if the complaint relating to the network-based transaction is not resolved and after a first criteria have been met.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggested that the method having allowing the first party to file an insurance claim concerning the complaint relating to the network-based transaction only if the complaint relating to the network-based transaction is not resolved and after a first criteria have been met (See Campbell, Fig.3; Page 5, Paragraph 0045 & 0048).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Vaidyanathan with the motivation of providing a computer-based method and system for managing insurance claims (See Campbell, Page 1, Paragraph 0006).

As per claim 22, Vaidyanathan discloses the computer-implemented method for a network-based facility, the method further comprising: allowing the second party to obtain additional contact information about the first party after the first party has filed a complaint about the network-based transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044).

As per claim 23, Vaidyanathan discloses the computer-implemented method for a network-based facility, the method further comprising: displaying legal services to the first party if the complaint is not resolved and after a second criteria have been met. (See Vaidyanathan, Page 6, Paragraphs 0064-0066).

As per claim 24, Campbell discloses the computer-implemented method for a network-based facility wherein the legal services comprise an attorney general associated with an area located where the second party resides (See Campbell, Fig.3; Page 5; Paragraphs 0045-0046).

As per claim 25, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the legal services comprise US Postal Inspection service (The Examiner interprets government to be a form of US Postal Inspection See Vaidyanathan, Page 1, Paragraph 0007).

As per claim 26, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the second criteria comprise an amount of time to lapse since the network- based transaction occurred (See Vaidyanathan, Page 2, Paragraph 0020).

As per claim 27, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise an amount of time to lapse since the network-based transaction occurred (See Vaidyanathan, Page 2, Paragraph 0020).

As per claim 28, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise the complaint about the network-based transaction having been entered within a specified amount of time after the network-based transaction occurred (See Vaidyanathan, Page 2, Paragraph 0020).

(I) As per claim 29, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise a minimum feedback amount

(See Vaidyanathan, Page 4, Paragraphs 0035-0038).

As per claim 30, Vaidyanathan disclose the computer-implemented method for a network-based facility wherein the first criteria comprise a minimum feedback amount (See Vaidyanathan, Page 4, Paragraphs 0035-0038).

As per claim 31, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise a minimum value of the network-based transaction (See Vaidyanathan, Page 4, Paragraphs 0035-0038).

As per claim 32, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise a maximum number of insurance claims has not been exceeded (See Vaidyanathan, Page 4, Paragraphs 0036-0037).

As per claim 33, Vaidyanathan discloses a network-based marketplace facility, the network-based marketplace facility comprising: a network-based marketplace for facilitating a transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044); a complaint module, said complaint module receiving a complaint relating to the network-based transaction and communicating information about the complaint to the second party (See Vaidyanathan, Fig.6, Page 5, Paragraphs 0057-0060); a messaging board module, said messaging board module

allowing the first party and the second party "without additional prompting", to repeatedly "authenticate to the network-based facility as said first party or second party to said transaction" view and enter comments about the complaint relating to the network-based transaction (See Vaidyanathan, Fig.2B; Fig.3; Fig.8; Page 4, Paragraph 0049)Fig.2B; Fig.3; Fig.8; Page 4, Paragraph 0049; Page 7, Paragraphs 0076-0078).

Vaidyanathan does not explicitly disclose that a resolution module, said resolution module allowing the first party to specify if the complaint is resolved and allowing the first party to file an insurance claim concerning the complaint only if the complaint is not resolved and after a first criteria have been met (See Campbell, Fig.3; Page 5, Paragraph 0045 & 0048).

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggested that the network having a resolution module, said resolution module allowing the first party to specify if the complaint is resolved and allowing the first party to file an insurance claim concerning the complaint only if the complaint is not resolved and after a first criteria have been met (See Campbell, Page 1, Paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Vaidyanathan with the motivation of providing a computer-based method and system for managing insurance claims (See Campbell, Page 1, Paragraph 0006).



As per claim 41, Vaidyanathan discloses a computer-readable medium, said computer-readable medium comprising a set of computer instructions for: receiving a complaint from a first party, the complaint relating to a network-based transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044); communicating information about the complaint to the second party (See Vaidyanathan, Fig.6, Page 5, Paragraphs 0057-0060); allowing the first party and the second party "without additional prompting", to repeatedly "authenticate to the network-based facility as said first party or second party to said transaction," view and enter comments about the complaint relating to the network-based transaction on a messaging board, "notification of comments entered by said first or second party is sent to the other party" (See Vaidyanathan, Fig.2B; Fig.3; Fig.8; Page 4, Paragraph 0049; Page 7, Paragraphs 0076-0078); allowing the first party to specify if the complaint is resolved (See Vaidyanathan, Page 7, Paragraphs 0076-0078).

Vaidyanathan does not explicitly disclose allowing the first party to file an insurance claim concerning the complaint relating to the network-based transaction only if the complaint is not resolved and after a first criteria have been met.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggested that the network having a resolution module, said resolution module allowing the first party to specify if the complaint is resolved and allowing the first party to file an insurance claim concerning the complaint only if the complaint is not resolved and after a first criteria have been met (See Campbell, Page 1, Paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Vaidyanathan with the motivation of providing a computer-based method and system for managing insurance claims (See Campbell, Page 1, Paragraph 0006).

Claims 34-40, and 42-45 recite the underlying process as claims 22-23, 26-30 and 32, respectively. As the various elements of claims 22-23, 26-30 and 32 and have been shown to be either disclosed by or obvious in view of the collective teachings of Vaidyanathan and Campbell, it is apparent that the apparatus disclosed by the applied art performs the recited underlying functions. As such, the limitations recited in claims 34-40, and 42-45 are rejected for the same reasons given above for method claims 22-23, 26-30 and 32, and incorporated herein.

#### **Response to Arguments**

4. Applicant's arguments filed on 2/03/09 with respect to claims 21-45 have been fully considered but they are not persuasive. Applicant's arguments will be addressed in the order in which they appear hereinbelow in the response filed on 2/03/09.

(A) At pages 7-11 of the response filed 2/03/09, Applicant argues that the features in the 2/03/09 amendment are not taught by or suggested by the applied references.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 2/03/09 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in

view of the collective teachings of Vaidyanathan and/or Campbell based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller* 642 F.2d 413, 208 USPQ 871 (CCPA 1981), *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference, nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nanel Frenel/

Examiner, Art Unit 3687

March 31, 2009